

**31A-28-110 Plan of operation.**

- (1)
  - (a) The association shall submit to the commissioner a plan of operation and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association.
  - (b) The plan of operation and any amendments become effective:
    - (i) upon the commissioner's written approval; or
    - (ii) after 30 days from the date the plan of operation or amendment is submitted to the commissioner if the commissioner has not disapproved the plan or amendment.
  - (c)
    - (i) If the association fails to submit a suitable amendment to the plan, the commissioner, after notice and hearing, shall adopt reasonable rules that are necessary or advisable to effectuate the provisions of this part.
    - (ii) The rules described in Subsection (1)(c)(i) continue in force until:
      - (A) modified by the commissioner; or
      - (B) superseded by an amendment to the plan:
        - (I) submitted by the association; and
        - (II) approved by the commissioner.
- (2) A member insurer shall comply with the plan of operation.
- (3) The plan of operation shall, in addition to any other requirement in this part:
  - (a) establish procedures for handling the assets of the association;
  - (b) establish the amount and method of reimbursing members of the board of directors under Section 31A-28-107;
  - (c) establish regular places and times for meetings of the board of directors, including telephone conference calls;
  - (d) establish procedures for records to be kept of the financial transactions of:
    - (i) the association;
    - (ii) the association's agents; and
    - (iii) the board of directors;
  - (e) subject to Section 31A-28-107, establish the procedures to be followed for:
    - (i) selecting members to the board of directors; and
    - (ii) submitting the selected members to the commissioner for approval;
  - (f) establish any additional procedures for assessments under Section 31A-28-109;
  - (g) establish procedures under which a member insurer may be removed from the board of directors for cause, including when the member insurer becomes an impaired or insolvent insurer;
  - (h) require the board of directors to establish policies and procedures that address conflicts of interests; and
  - (i) contain additional provisions necessary or proper for the execution of the powers and duties of the association.
- (4)
  - (a) The plan of operation may provide that any or all powers and duties of the association, except those under Subsection 31A-28-108(14)(d) and Section 31A-28-109, are delegated to a corporation, association, or other organization that will perform functions similar to those of the association, or its equivalent, in two or more states.
  - (b) A corporation, association, or organization described in Subsection (4)(a) shall be:
    - (i) reimbursed for any payments made on behalf of the association; and
    - (ii) paid for its performance of any function of the association.

- (c) A delegation under this Subsection (4):
  - (i) takes effect only with the approval of:
    - (A) the board of directors; and
    - (B) the commissioner; and
  - (ii) may be made only to a corporation, association, or organization that extends protection not substantially less favorable and effective than that provided by this part.

Amended by Chapter 292, 2010 General Session